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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE: UBER TECHNOLOGIES, INC.,  
PASSENGER SEXUAL ASSAULT  
LITIGATION

MDL No. 3084 CRB

**NOTICE OF MOTION AND MOTION  
TO WITHDRAW AS COUNSEL FOR  
PLAINTIFF NICOLE NACCARATO**

This Document Relates to:

JURY TRIAL DEMANDED

*NICOLE NACCARATO v. UBER  
TECHNOLOGIES, INC., et al.*  
Case No. 3:24-cv-05312

Judge: Hon. Charles R. Breyer  
Date: March 7, 2025  
Time: 10:00 a.m.  
Courtroom: 6 – 17<sup>th</sup> Floor; Videoconference

**NOTICE OF MOTION & MOTION**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD, PLEASE TAKE NOTICE  
that on Friday, March 7, 2025 at 10:00 a.m. by videoconference (accessible at  
[https://canduscourts.zoomgov.com/j/1611472837?pwd=cy81NUdINWZmeEpFUjlHRXM3djZ5  
QT09](https://canduscourts.zoomgov.com/j/1611472837?pwd=cy81NUdINWZmeEpFUjlHRXM3djZ5QT09)), before the Honorable Charles R. Breyer, in Courtroom 6 of this Court, located at 450  
Golden Gate Avenue, San Francisco, CA 94102, Estey & Bomberger LLP (E&B), counsel of

1 record for Plaintiff Naccarato (“Plaintiff”), moves this Court for an order permitting its withdrawal  
2 as counsel for Plaintiff.

3 This Motion is made pursuant to Local Rule 11-5(a) and California Rules of Professional  
4 Conduct 1.16(b)(4) and 1.16(d). This Notice of Motion & Motion is based on the below  
5 Memorandum in Support and the accompanying Declaration of Angela J. Nehmens, filed herewith  
6 as Exhibit A. A Proposed Order is attached as Exhibit B.

7 **MEMORANDUM IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL**

8 Pursuant to Local Civil Rule 11-5(a) and California Rules of Professional Conduct  
9 1.16(b)(4) and 1.16(d), E&B submits this Memorandum of Law in support of its Motion to  
10 Withdraw as Counsel for Plaintiff Naccarato. E&B respectfully requests the Court grant the Motion.

11 **STATEMENT OF FACTS**

12 Plaintiff Naccarato is currently represented by E&B. Plaintiff’s claims were filed in the  
13 United States District Court for the Northern District of California as Case No. 3:24-cv-05312 on  
14 August 16, 2024. Plaintiff’s case was consolidated into the multidistrict litigation *In re: Uber*  
15 *Technologies, Inc. Passenger Sexual Assault Litigation*, Case No. 3:23-md-03084, on August 19,  
16 2024.

17 E&B has been unable to reach Plaintiff since October 27, 2022. *See* Ex. A, Declaration of  
18 Angela J. Nehmens (“Nehmens Decl.”) at ¶ 2. E&B has made numerous attempts to contact  
19 Plaintiff via phone, email, and text. Nehmens Decl. ¶ 4(a)-(d). E&B repeatedly explained why  
20 Plaintiff’s participation was necessary to prosecute this case. *Id.* Since October 27, 2022, E&B has  
21 also sent numerous additional letters via US Mail noting discovery deadlines, explaining the risk of  
22 dismissal, and explaining that E&B could not continue to represent Plaintiff without her input.  
23 Nehmens Decl. ¶ 4(b)-(d). During this time, E&B continued to meet and confer with opposing  
24 counsel, seeking extensions for discovery deadlines to protect Plaintiff’s interests. Nehmens Decl.  
25 ¶ 5.

26 On October 29, 2024, E&B formally advised Plaintiff by email and Certified Mail that it  
27 would be unable to move forward with her case and that Uber would move to dismiss her case if  
28 her Plaintiff Fact Sheet (PFS) was unable to be completed Nehmens Decl. ¶ 4(c). E&B also advised

1 Uber of its intent to withdraw. Nehmens Decl. ¶ 7. To date, Plaintiff has not contacted E&B, has  
2 not agreed to or informed E&B of her desire to voluntarily dismiss her case, and has not informed  
3 E&B that alternate counsel has been retained. Nehmens Decl. ¶ 6. E&B thus remains counsel of  
4 record for Plaintiff but also remains unable to reach her.

### 5 ARGUMENT

6 E&B should be permitted to withdraw as counsel for Plaintiff. An attorney may  
7 withdraw from a case by obtaining an order from the court after reasonable advance written  
8 notice has been provided to the client and to all other parties. Civ. L.R. 11-5(a). Attorneys  
9 practicing before this Court are also required to adhere to the California Rules of Professional  
10 Conduct. Civ. L.R. 11-4(a)(1). Under those rules, a “lawyer shall not terminate a representation  
11 until the lawyer has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights  
12 of the client.” Cal. Rules. Prof. Conduct 1.16(d)(1).

13 E&B has given Plaintiff appropriate advance notice of requirements to continue her case  
14 beginning in late 2022 and culminating with final notice on October 29, 2024 and another attempt  
15 to reach her by text message on November 19, 2024. Nehmens Decl. ¶ 4(b)-(d). E&B has also given  
16 advance notice to Uber. Nehmens Decl. ¶ 7. E&B has taken all steps possible to avoid prejudice to  
17 Plaintiff. Nehmens Decl. ¶ 8. In multiple letters, calls, emails, and texts, E&B explained the  
18 consequences of failing to contact the firm or to meet discovery deadlines. Nehmens Decl. ¶ 4. At  
19 no time has Plaintiff replied to our communications. Nehmens Decl. ¶ 6. E&B also continued  
20 negotiating discovery extensions with Uber for the past two months to protect Plaintiff’s case from  
21 dismissal. Nehmens Decl. ¶ 5. E&B has thus taken all reasonable steps to avoid foreseeable  
22 prejudice to the Plaintiff. Nehmens Decl. ¶ 8.

23 Under California Rule of Professional Conduct 1.16(b)(4), a lawyer may withdraw from a  
24 case if “the client . . . renders it unreasonably difficult for the lawyer to carry out the representation  
25 effectively.” Here, Plaintiff has failed to communicate with E&B and failed to  
26 provide information required to prosecute her case. Nehmens Decl. ¶¶ 2-3. E&B has been unable  
27 to meet discovery deadlines in this case because, for example, the Plaintiff Fact Sheet requires  
28 Plaintiff’s input and verification. *See* Nehmens Decl. ¶ 3. Plaintiff’s conduct thus falls into the

1 express terms of Rule 1.16 regarding permissive withdrawal.

2 Because this motion is not accompanied by a substitution of counsel or an agreement by  
3 Plaintiff to proceed pro se, E&B agrees to the condition imposed by Local Rule 11-5(b) to serve  
4 Plaintiffs with all papers in this matter, unless or until Plaintiff appears pro se, other counsel  
5 appears on Plaintiff's behalf, or upon further order of the Court. *See* Nehmens Decl. ¶ 9.

6 **CONCLUSION**

7 E&B respectfully requests that the Court enter an order terminating its representation of  
8 Plaintiff Naccarato and allowing Plaintiff 30 days to retain new counsel.

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10  
11 DATED: January 29, 2025

Respectfully Submitted,  
**ESTEY & BOMBERGER, LLP**

13 /s/ Angela J. Nehmens, Esq.  
14 Stephen J. Estey  
Angela J. Nehmens

15 **Attorneys for Plaintiff**  
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**CERTIFICATE OF SERVICE**

I hereby certify that on January 29, 2025, I electronically filed the above document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

By: /s/ Angela J. Nehmens